G. R. S. IX—5]

Previous references 1923. (Courts) **File No.** 239-23

Serial Nos. 1-2

Later references

Prepare L

DR

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Nil

Part B for June 24

SUBJECT

Memorial of Mahaboob, accused in Kolar sessions case No 3 of 23-24 on the file of the Sessions Judge Bangalore Dn. and Appellant in Cr Ap No 574 of 23 on the file of the High Court.

Nos P 68 309 12-6-24

To the High Court

forwards copy of an order commuting the sentence of death passed on Mahaboob into one of transportation for life

Ramaswamy Iyengar
18/7/24.

4655

1

G. R. S. 11] 1923-4

GENERAL AND REVENUE SECRETARIAT.

(cls)

NOTES.

File No. 239-23

FILE HEADING.

Memorial of Mahaboob accused in Kolar Sessions Case no 3 of 1923-4 on the file of the Sessions Judge Bangalore & and appellant in Cr Ap no 54 of 23-4 / & Ref Case no 4 of 23-4 on the file of the Chief Court

From

The Regr Chief Court

No. 710 / C Dated 14/23-4-24 Received 24-4-24

Diary No. 4655	Enclos. Nil Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the memorial of Mahaboob accused and sentenced to death in Kolar Sessions case no 3 of 24 on the file of the Sessions Judge Bangalore and whose sentence was confirmed by the Chief Court in Cr Ap no 54 of 23-4 Cr Ref case no 4 of 23-4 on their file.

NOTES AND ORDERS.

Submd
25/4/24

This is an appeal for mercy against the sentence of death passed by the Sessions Judge of Bangalore and confirmed by the Chief Court.

The memorialist is stated to

NOTES—First Sheet.

G. R. S. III-21.

General and Revenue Secretariat.

No File No. 239 of 1923

Serial No.

have enticed the deceased – a young-girl of about 10 years of age – with promises of giving her fruits and Vegetables, taken her to a mango garden Stripped her of the jewels she was wearing, and then pushed her into a deep well and thrown a heavy slab of Stone over her, thus causing her death.

As usual the accused pleads innocence, and his being made a victim in place of the real culprit whoever they are. He says he was not in the place at all, but was brought from the limits of Hindupore and Charged with the crime.

From the evidence on record, there appears to be no room for any doubt as regards the crime, and the accused's complicity in it. Very soon after the girl was missed, people have come forward to say that the accused took her, towards the mango garden. The mother of the girl has dissuaded the girl from accompanying the accused, when the girl told her, that the accused

NOTE—Contn. sheet.

Serial No.

wanted her to go with him to fetch fruits and vegetables sent by her father. Two class mates of the deceased — young girls themselves — have seen the deceased go with the accused, whom they have identified in a parade. One of them has asked the deceased where she was going and has been told that the accused was taking her to give her fruits and vegetables. Two independent witnesses — a jutka driver and another — have seen the accused taking the deceased. Two others have seen the accused running away from the scene of the crime in a state of fright. Jewels which the accused tried to barter or sell, have been found, and they have been identified as those that the accused was wearing on that day. A list of these is to be found in the Police report made on the day the girl was missed. It was Moharrum festival, and the deceased was therefore decked with jewels which tempted the accused to commit the crime.

G. R. S. III-2)

4655 4

4

General and Revenue Secretariat.

do File No. 239 of 1923

Serial No.

Though the accused is a young man, there are no extenuating circumstances; and considering that he enticed away a young child and then killed her, to prevent his robbery being found out, there are no grounds for mercy to be shown. The memorial may perhaps be rejected.

Lt. Sec'y

cag 5/5

9.5.27
9.5.24

Secretary

Member

8/5

cag 8/5

This is a brutal murder. Committed by an educated man. The Evidence is clear and cogent against him. There is no extenuating circumstances in this case. The memorial may be rejected.

Please send this down. May be disposed by circulation

Hon'ble

for 18.7.25

Sec'y

NOTE—Contn. sheet.

G. S. III-2a]

U655

5

51

DEWAN'S MINUTE.

General and Revenue Secretariat. do File No. 237 1923

Date of submission	Date of Return	Date of issue of orders in the Secretariat	Remarks

The act which caused death
with core C — rudence is
hurting the deceased with
a will — & the varieg
is whether this was done with
the intent to kill.
There is no direct — Evidence about
In such case this
Hindu shastra that
Death sentence is Commuted
to Imp. for life.
Hence there remains
clemency

Y
20.5 —
Reg. —

9799
20.5.24 per Hon'ble

I have no objection
Sd/-
20/5
for Secy of Cabinet 21/5 —

Ch. by will
Copy

circulate

I think the accused sentence
was quite severe
accs on the case.
I have nothing
objection his being
commuted to
transportation for life
as proposed by the
Secy

Sd
26/5

WD 2314—GPB—2000—28-6-22.

6

(For Disposal by Circulation.)

No. C. 457

9 19.24

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

DEW... E;
RECD. 14 - JUN 1924
Reg. No. 8760

SUBJECT.

Appeal of Mahboob, a condemned prisoner in the Bangalore Central Jail, for mercy.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Chief Secretary to Government.

22nd May 19 24.

Extraordinary Member of Council.

First Member of Council. 9841/22/5

Second Member of Council. 541/26.5

Third Member of Council. 9907/26/5

Subd for final note (1st Member)

Final Note signed by the Member; placed in the Office

S. N. Subd
Dewan

7

Submitted to His Highness.

I submit herewith a Final Note by the...First.....

Member of Council on the subject of...memorial..of.....

Mahboob, a condemned prisoner in the Bangalore.....

Central jail for mercy.....

for His Highness' gracious approval.

Dewan.

JUN 1924

8

Final Note by the First Member of Council.

Subject:—

Memorial of Mahboob, a condemned prisoner in the Bangalore Central Jail for mercy.

The memorialist was tried on a charge of having robbed a girl 10 years old of her jewels and of having murdered her, and was convicted and sentenced to death by the Sessions Judge, Bangalore Division. The conviction and sentence having been confirmed by the Chief Court, the memorialist has approached His Highness on the usual ground of innocence.

The case against the memorialist is that he enticed the deceased with promises of giving her fruits and vegetables, took her to a mango garden, stripped her of the jewels she was wearing, and then pushed her into a well and dropped a heavy slab of stone over her. It has been proved that the girl was being taken by the accused on the date of the occurrence and that the accused was seen running away from the scene of crime in a fright later on the same day. Jewels which the accused tried to barter or sell have been found and identified as those which the girl was wearing on the said date.

When the connected papers were submitted to me, I recorded the following minute:- Page 4 of office Notes

"This is a brutal murder committed by the accused. The evidence is clear and cogent against him. There is no extenuating circumstances in this case. The memorial may be rejected".

The Dewan however recorded the following opinion:- Page 5 of do.

" The act which caused death in this case according to evidence is pushing the deceased into a well and the verdict is

that this was done with the intent to kill. There is no direct evidence about this.

In such cases it is, I think, but right that death sentence is commuted to transportation for life.

I would therefore recommend clemency".

Page 5 of office Notes

On the papers being resubmitted to me, I stated that I had no objection to the Dewan's proposal to recommend clemency. The Second Member has also no objection to the commutation of the sentence as proposed, though he considers the death sentence is quite deserved by the accused.

Gracious sanction of His Highness is solicited to commute the death sentence passed on the memorialist to one of transportation for life.

Bangalore,
3rd June 1924.

MEMBER OF COUNCIL.

10 C457

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Commutation of the sentence of death passed on Mahoob into one of transportation for life.

926

Order.

~~KRW~~

6/6/24

Secy to G

JUN 1924

7/6

11

C 457

General and Revenue Secretariat.

Appeal of Mahboob, a Condemned prisoner in the Bangalore Central Jail for Mercy.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to the Members of Council for perusal of His Highness' orders $\frac{\text{before}}{\text{after}}$ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Govt.

Through the Secretary to Government.

...L. and L.... Department.

8-4
7-6.

FIRST MEMBER OF COUNCIL.

SECOND MEMBER OF COUNCIL.

THIRD MEMBER OF COUNCIL.

NOTE—Contn. sheet.

Mono WD 1190—GPB—500 9-1-'3.

4655 12

G. R. S. III-2]

General and Revenue Secretariat. | Cb File No. 239 of 1923-4

Serial No.

DE... OFFICE,
9 - JUN 1924
Rec... 8935

Nominal draft order commuting the Sentence may be submitted.

Cag 7.6

Draft read and a fair copy in favour of Devan's signature.

Cag 7.6.24

Dewan). 4/6

Cag 7.6.24

10/6 Issue Cag 4/6

2 To the Regr. Chief Court No P. 6830 dt 12.6.24.

Two copy of order commuting the sentence of death passed on Mahboob into one of transportation for life for communication to the prisoner. Chief

W/6.

NOTE—Contn. sheet.

G. R. S. VII—S-III/34]

In the Matter of a Memorial
of Mahboob, a condemned prisoner
in the Bangalore Central Jail for mercy.

His Highness the Maharaja

has been pleased to

Commute the sentence of death passed on him into one of transportation for life.

Dewan.

WD 02264—GPB—500—5-2-17

cwg 7-6

US

33261

4655
14 P

No. 710 Cr D/23.4.24/Enc: A+B file of record in Sessions Case and one A file of records of committing Magistrate's Diary and one file of Police Spl Diary & one file of Ch: Ct record.

Bangalore,

Dated 14th April 1924.
23rd.

From

THE REGISTRAR OF THE

CHIEF COURT OF MYSORE.

cwj 24/4

To

THE SECRETARY TO GOVERNMENT,

LOCAL AND LEGISLATIVE DEPARTMENTS.

~~GENERAL AND REVENUE DEPARTMENTS~~

BANGALORE.

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by Mahaboob accused in Kolar Sessions Case No. 3 of 1923-24 on the file of the Sessions Judge of Bangalore Division and appellant in Criminal Appeal No. 54 of 1923-24 on the file of this Court. Criminal Referred Case No.4 of 1923-24

The entire record of the case is herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar. 15/4/24

GPB—1,000—16-8-12

RV.

[illegible]

[illegible] 1228 [illegible]

[illegible]

IN THE COURT OF SESSION, BANGALORE DIVISION.

Dated, Camp Kolar. 27th November 1923.

Present:-- K. Ramaswamy Iyengar, Esq., B.A., B.L.,
Sessions Judge.

Kolar Sessions Case No. 3 of 1923-24.

Complainant. Accused.

Government. Vs. Lahabub.

J U D G M E N T.

The accused has been committed for trial for having robbed one Hafeeza Bi, a girl of about 10 years of age, of the jewels, which she had worn, and for having murdered her by pushing her into an empty well and dropping a stone on her on 26-9-1923.

2. The facts of the case are these - Deceased's father, Abdul Jaleel, is a Police Constable at Srinivasapur, and on the date of the occurrence he was on duty at the station from 6 A.M. till 12 noon. The deceased took break-fast to him at about 9.30 A.M. and when she was returning home with the vessels, the accused pursuaded her to go with him, by saying that he would give her the vegetables and fruits, his father had sent for. After going home, the girl told her mother about it, but though the latter desired her to remain at home, she went with the accused. She wanted one of her younger brothers also to accompany her, but the accused dissuaded him from going with them, by saying that the place, to which they were going to, was at some distance. He then took her to an empty well in a mango garden, which is 46 feet in depth and about 4ths of a mile from the town and after removing

the

Srinivasapur and left him with the Amildar who arrested him.

Three days later i.e., on 31-8-1923 accused took the Amildar to a tree, which is about 6 miles from Srinivasapur and on the way to Nambihalli and pointed to (patti) article 12 which was lying there and which had been used for the addikey which the girl had worn. And from the information which the accused gave him, the Amildar recovered on the following day (1-9-1923) from Achu Miah of Nambihalli and Varadappa, who is a resident of an adjoining village (Anchiganahalli), the junkies and addikey pieces, which the accused had left with them. Achu Miah informed the Amildar that the accused had left with one Hyder Sab of his village a bayali and a bulaku and on 4-9-1923 Hyder Sab produced those articles before the Amildar. Deceased's parents identified the articles which were produced by these persons as the ones, which the girl had worn, and the Amildar accordingly seized them. After some further investigation, the charge sheet was placed before the lower court on 10-9-1923.

7. In the statement, which the accused gave before the lower court, he admitted that he took the deceased to the well and that after removing the jewels, he pushed her into it. In this court also when the charges were explained to him at the commencement of the trial, he pleaded that he was guilty, but when he was informed that by making that confession he was rendering himself liable to a sentence of death, he pleaded that he made that statement in the lower court, as he was tutored by the Police to do say so and that he was really not guilty. And when he was examined after the evidence for the prosecution was recorded, he stated that he could not say what all he did on the date of the occurrence, as he was not in his right senses then.

the deceased was going with the accused on the road leading to Avalakuppey. And Thippa (P.W.14) has said that at about 10.30 A.M., when he was going to Srinivasapur from Avalakuppey he observed that the accused was taking the girl towards Meera Hussein's garden, wherein the well in which the corpse was found, is situated.

12. The evidence of these witnesses is that when they found that there was a commotion in the town that the deceased was missing they told the persons whom they met that they saw her in the company of the accused and the fact that the latter is expressly referred to in the patel's report Ex:P1 which was delivered to the Inspector at about 5 P.M., on the same day as the person that took the girl, is of much significance.

13. P.Ws. 15 and 16 (Syed Fakruddin and Chowdappa) are residents of Srinivasapur and know the accused well. Their evidence is that in the noon in question when they were grazing their cattle, the accused came running, as if in a fright, from the direction of Meera Hussein's garden and that after stopping with them for a short time, he went towards the town.

14. P.W.10 Achu Miah is the witness, to whose house at Nambihalli the accused went with the stolen jewels in the same afternoon. Besides Achumia, his wife and son (Sarumbi and Dastagir) and two others, Varada and Ayder Sab (P.Ws. 7 and 8) have sworn that the accused had taken to Achumia's house the addikey pieces (articles 14 and 15), jumkies (Art:13), bavali and bulaku (Arts:16 and 17) which are before the court and which the deceased's father and mother have identified as theirs.

15. The evidence of Dastagir (P.W.9) is that the accused gave him one of the pieces of the addikey asking him

the prosecution witnesses to show that his head would occasionally be deranged and that he might have committed the deed in question on one of such occasions. But though so many as 12 witnesses who are residents of Srinivasapur, have been examined as witnesses in the case not even one has said anything in support of that theory. And there is absolutely no evidence to show that he was not in his proper senses at about the time when this occurrence took place.

19. It was argued on his behalf that the fact that he gave an addikey piece to Dastagir to pledge it and to bring cigarettes and that he was prepared to pledge art:15 which consists of 43 loose addikeys and 46 beads for a loan of Rs.10/- would show that he must have been out of his senses. But these incidents transpired after the girl was murdered and it is possible that after committing that foul deed he became confused and did not hit upon a proper plan for realising the benefit of his act.

20. From the evidence on record I do not think that it could be held that the accused was either out of his senses on the date of the occurrence or that he is a man of defective understanding. P.Ws.21 and 24 (Fathulla Sab and Davood Khan) have sworn that he was in their service for some time and that there was nothing peculiar about his mental condition.

21. The date of the occurrence was a festival day among Musalmans and the girl, who happened to be the eldest child of the complainant, was decked with some valuable ornaments. It appears to me to be clear that the accused entertained the idea of robbing her of them and to prevent detection to have killed her by pushing her into the well.

22. The assessors are of opinion that the accused is guilty and I concur with them and hold that he is guilty.

25

IN THE COURT OF SESSION, BANGALORE DIVISION.

Kolar Sessions Case No. 3 of 1923-24.

Complainant. Accused.

Government. Vs. Mahabub.

Appendix to Judgment.

The following witnesses were examined for prosecution.

1. Seshachar, 2. Mr. Abdul Khalak, 3. Rabia Bi, 4. Tahira Bi, 5. Jainathunnisa Bi, 6. Saram Bi, 7. Varada, 8. Hyder Sab, 9. Dastagir, 10. Achu Miah, 11. Shamanna, 12. Girimaji Rao, 13. Mohadeen Sab, 14. Thippa, 15. Syed Fakrudin, 16. Chowdapp 17. Bashu, 18. Vasudevayya, 19. Teli Muniga, 20. Thimmaraya Setty, 21. Fathulla Sab, 22. Abdul Jaleel, 23. Khasim Ansar 24. Davood Khan, 25 Subbarayappa, 26. Bayyanna, 27. Venkata Narasappa and 28. Subbarayappa.

The following exhibits were marked for prosecution.

P1.. Patel's report dated 26-8-1923
P2.. -----do---- 27-8-1923
P3.. Statement of Abdul Jaleel made before the Inspector of Police on 26-8-1923,
P4.. Post mortem certificate,
P5.. A sketch of the scene of occurrence,
P6.. Statement of the accused before the lower court.

The following articles were produced in the case.

1. One tara,
2. A silver ring,
3. A pair of silver kuchoos,
4. A langa,
5. A striped shirt,
6. A hollond under-wear
7. A davani,
8. One woolen purse containing a pie, a tin button, 5 slate pencil pieces, 2 cardamams and one piece of nut,
9. A piece of red tinsel,
10. A piece of thread with an amulet,
11. A stone,
12. A patti used for addikey,
13. One pair of gold jumkies,
14. One middle and two side pieces of an addikey
15. 43 loose addikeys and 46 gundus
16. One pair bavali,
17. One gold bulaku

Neither any witness was examined nor any exhibit filed for defence.

****

1225 716

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Thursday the 27th day of March 1924.

****

~~ORDER~~

PRESENT:

HR. JUSTICE R. B. P L U M E R

and

HR. JUSTICE B. S U B B A N N A.

Petition of Criminal Appeal No.54 of 1923-24/Criminal Referred Case No.4 of 1923-24 against the convictions and sentences passed by the Sessions Judge of Bangalore Division under Sections 392 and 302 of the Indian Penal Code. in Kolar Sessions Case No.3 of 1923-24.	APPELLANT Mahabub (Accused).

J U D G M E N T.

The appellant is convicted under Sections 392 and 302 ~~Code~~ Indian Penal Code, for having robbed a young girl, aged about 10, named Hafizabi of the jewels she wore, and killed her by pushing her into a disused well and dropping a stone slab upon her. He is sentenced to the extreme penalty of law for the offence of murder and to seven years rigorous imprisonment for robbery.

We have heard and carefully considered the elaborate arguments addressed to us on the appellant's behalf by Mr. Rajagopaul Iyengar whose services were employed by the Court, and have bestowed our anxious consideration on the evidence and the probabilities of the case, but we are unable to find any reason to differ

from

from the learned Counsel for the Defence either in his findings or the sentence.

There can be no doubt that Rafeek took food to her father Constable Abdul Saleel at about 8-30 A.M. on the 23th of August last and after returning home was taken by the accused towards a cargo type shed in an old well her corpse was found the next morning. Mabel the mother of the girl gives evidence that when the girl came home she and a little boy, her younger brother, said that some person said to them on the way that if they went with him he would give them some vegetables and fruits which Saleel had sent for - apparently pretending that Saleel had sent for them and they were ready. Mabel did not actually see the girl go and as a matter of fact told her not to go with the man but she went unnoticed by her. And two other girls Shafeek and Rafeeka Ahamed (Prosecution Witnesses 4 and 5) say they observed the girl later with the accused and Rafeeka says that the deceased informed her that the accused was taking her saying that he would give her the fruits and vegetables her father had sent for. Her companion Rafeeka's version is slightly different as to the details of their meeting the deceased and the accused, but it appears to us that the confusion in the Chief Examination some facts which were observed before she and Prosecution Witness 4 went into the dispensary (whereto they had to go for some medicine) with these they witnessed after their return from that place - a very natural thing for children of such tender age to do. The evidence of Mohadeen Sab (Prosecution Witness 13) and Thippa (Prosecution Witness 14) prove clearly that the accused was going with the deceased on the way to Avalkuppe and the sketch Exhibit P.4 makes it

clear

clear that this was towards the mango grove where the dead body was found. There is nothing on record to show that the evidence of these witnesses should be distrusted; but on the contrary the fact that it was widely known by about 4 P.M. that the girl had gone with the accused and the matter was reported to the Patel (Prosecution Witness 23) and he mentioned in his report Exhibit P.1. sent at 5 P.M. the name of the appellant as the accused who had taken the girl to the garden on the pretence of giving her apples and vegetables and Jaleel mentioned all these facts at 5-35 P.M. to the Inspector (Exhibit P.3) places the matter beyond all doubt and it is needless to refer to the evidence of Fakruddin and Chowdappa (Prosecution Witnesses 15 and 16) that they saw the accused come running from the direction of the grove and being questioned said that he plucked some wood apple in the State forest closeby and as the forest guards came to catch him he was running away.

As to what happened at the mango garden there is no eye witness. But there is no dispute about the fact that the girl's corpse was found early next morning in a well in it and a big slab of stone which was near the mouth of the well had fallen on its head. The medical evidence shows that the bones of the head were smashed into several pieces as also some ribs and a collar-bone and that death was due to the girl's fall into the well and the dropping of the stone slab on her head. It may be mentioned here that there is evidence that a serpent was seen crawling over the body of the child but no attempt was made to show that the death should have been owing to serpent-bite and in all probability such an attempt could not have succeeded, and no one says that the snake was a poisonous one. The learned advocate for the appellant contended that the accused was

not

not responsible for the death of the child and that she may have accidentally fallen into the well and the stone may have tumbled down being thrown down. But we have no doubt whatever, that the accused robbed the girl of her jewels or will be shown presently. He admitted before the Committing Magistrate that he pushed the girl into the well taking the ornaments articles of jewellery that she wore, but said that he did not throw the stone on her. In the Sessions Court he at first said that he confessed the acts he was charged with but then he was warned that by that confession he was rendering himself liable to get the sentence he pretended it. The locality is such that ordinarily no children like - - Rafiabi go to, and we cannot accede to the argument that even if the accused robbed her of the jewels he did not be held responsible for her death as she could have tumbled into the well in the struggle that should have ensued when the accused began to rob the jewels. The charge here appears to be a big one and we cannot understand that if the accused did not wish to push her into the well the struggle should have been, if at all, so near to it as to make her fall into it. If the accused had no intention to push her the girl into the well he would not have taken her near to it at all, for there was the danger that he himself might fall into it in the struggle and confusion. We unhesitatingly believe the accused's statement before the Committing Magistrate that he pushed the girl into the well and there can be no doubt that he did so with intent to kill her and is quite responsible for the consequences even if the stone fell accidentally over her. But the evidence of the Amildar places it almost beyond doubt that this stone had settled itself well in its place and could not have fallen into the well accidentally.

Rabiyabi the mother of the deceased gives a description of the jewels that the girl was wearing when she left the house. These are mentioned in the Patel's report and the statement of Jaleel to the Inspector. The two girls Tahira and Zainathunnisa give a description of all the important ones that the deceased was wearing. It does not appear to us to be an important matter that Mohadeen and Thoppia do not refer to any jewels. Perhaps if they were questioned about them they would have mentioned some, - at least Mohadeen who refers to the 'Addikey' before the inquest officer. There is the admission of the accused before the Committing Magistrate that he robbed the girl of the Addikey, Jumkis, Bavalis and Bulaku. We find a statement in the supplemental appeal petition submitted by the accused that the jewels before the Court were given into his hands by the Amildar and the Police Inspector in order to make up a false case which though at variance with the first appeal memorandum constitutes an admission that he was in possession of the jewels. However we have abundant evidence that he disposed of these jewels at Nambihalli. The evidence of Sarambi (Prosecution Witness 6) Varada (P.W.7) Hyder Sab (P.W.8)Dastagir (P.W.9) and Achumia (P.W.10) appears to be irreproachable. It may be that the disposal of the jewels was not much to the advantage of the accused but that does not by any means shake the evidence of these witnesses; and the accused pointed out the 'patti' to which the pieces that made up the 'Addike' had been stitched. In these circumstances the learned advocate for the accused naturally found it difficult to get over all this evidence/ and employed arguments more to assail the finding as to murder than robbery. We have no doubt that both findings are correct.

The

The evidence of [illegible] (Prosecution Witness 17), Sub Inspector Varudevish (P.W. 18) and Tholi Lunigo (P.W. 1) shows that the accused escaped when he was being brought from Mambilalli. He was later on found at a place called Bellahalli and taken to Srinivasapur. In themselves these facts may not count for much but they add their own weight to the other evidence in the case.

The little discrepancies between the evidence of Jaleel and his statements before the Inspector and at the inquest, and the trifling variation in the evidence of Bachi and Tholi Lunigo as to what they said to Varudevish and the failure to examine one Beema a Mohamedan woman who appears to be one of the persons that saw the accused take the girl, do not in our opinion affect the merits of the case at all.

Being Lohorna time the poor girl was bedecked with these costly jewels and this unfortunately proved disastrous to her and tempted the accused to commit this foul deed. We see no extenuating circumstances and are of opinion that he fully deserves the capital sentence passed upon him. We therefore dismiss this appeal and confirm the sentence of death.

(Sd) R. B. Plumer
J U D G E.

(Sd) B. Subbanna.
J U D G E.

'Copy'
Meenakshi
Registrar.

TKV.

G. R. S. VI—S-III/33]

32

DRAFT.

SUBJECT .....

.....

.....

Section. Cb
File No. 239-23
Serial No. 2

No. 16830

Diary No. of letter replied to.....

To

Records

The Registrar of the Chief Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,

( )

, the.....*191*

Date of issue..... 12/6/24

Signed by..... M N Le Ag

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner..... Mahboob ..... a condemned prisoner ..... undergoing ~~sentence of~~ under sentence of death ..... in the Bc. ..... Jail, copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorial for mercy.

2. The entire records received with your letter No. 710/Cr. dated 14/23rd April 24 191 are herewith returned.

I have, etc.,

4.1.6

Secretary.

Cr. 7.6 1+2 copies

7.6.24